

**Effective 5/12/2015**

**78B-4-512 Definitions -- Participation in an agricultural tourism activity -- Limitations on civil liability.**

- (1) As used in this section:
- (a) "Agricultural tourism activity" means an educational or recreational activity that:
    - (i) takes place on a farm or ranch or other commercial agricultural, aquacultural, horticultural, or forestry operation; and
    - (ii) allows an individual to tour, explore, observe, learn about, participate in, or be entertained by an aspect of agricultural operations.
  - (b) "Agritourism" means the travel or visit by the general public to a working farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation for the enjoyment of, education about, or participation in the activities of the farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation.
  - (c) "Inherent risk" means a danger, hazard, or condition which is an integral part of an agricultural tourism activity and that cannot be eliminated by the exercise of reasonable care, including:
    - (i) natural surface and subsurface conditions of land, vegetation, and water on the property;
    - (ii) unpredictable behavior of domesticated or farm animals on the property; or
    - (iii) reasonable dangers of structures or equipment ordinarily used where agricultural or horticultural crops are grown or farm animals or farmed fish are raised.
  - (d) "Operator" means:
    - (i) a person who operates, provides, or demonstrates an agricultural tourism activity; or
    - (ii) an employee of a person described in Subsection (1)(d)(i).
  - (e)
    - (i) "Participant" means an individual, other than a provider or operator, who observes or participates in an agricultural tourism activity, regardless of whether the individual paid to observe or participate in an agricultural tourism activity.
    - (ii) "Participant" does not mean an individual who is paid to participate in an agricultural tourism activity.
  - (f) "Property" means the real property where an agricultural tourism activity takes place and the buildings, structures, and improvements on that real property.
- (2) A participant in an agricultural tourism activity may not make any claim against, or recover damages from, any operator for injury primarily resulting from:
- (a) an inherent risk of agritourism; or
  - (b) the participant's failure to:
    - (i) follow instructions given by the operator; or
    - (ii) exercise reasonable caution while engaged in an agricultural tourism activity.
- (3) An operator shall post and maintain, in a clearly visible location at each entrance to the property where an agricultural tourism activity takes place or at the location of each agricultural tourism activity, a sign describing:
- (a) the inherent risks of the activity; and
  - (b) the limitations on liability of the operators.
- (4) In any action for damages for personal injury, death, or property damage in which an owner or operator of an agritourism activity is named as a defendant, the court shall undergo a comparative negligence analysis and consider whether:
- (a) the injured person deliberately disregarded conspicuously posted signs, verbal instructions, or other warnings regarding safety measures during the activity; or

- (b) any equipment, animals, or appliance used by the injured person during the activity were used in a manner or for a purpose other than that for which a reasonable person should have known they were intended.

Amended by Chapter 63, 2015 General Session